



Implementing Proposition 215 in San Jose

Posted by **Pierluigi Oliverio** on Monday, November 02, 2009

I support an ordinance in San Jose that allows for the cultivation and sale of medical marijuana dispensaries/collectives.

Proposition 215, which was passed with voter approval in 1996, called for the legalization of Medicinal Marijuana with 56 percent of the voters in favor. Santa Clara County supported this proposition by 64 percent. Since then, the legislature has passed SB420 which dealt with the actual implementation of Medical Marijuana.

In 2008, the State Attorney General presented Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use. Most recently, on Oct 19, 2009, the Obama administration stated that they are not prosecuting medicinal marijuana in states where it is legal: California, Colorado, Oregon, Washington, Vermont, Maryland, Michigan, Montana, Nevada, Maine, Rhode Island, Alaska and Hawaii.

I understand that proposing to allow the cultivation and sale of cannabis will raise questions and concerns. This issue did not happen overnight, but rather has taken a pragmatic and thoughtful approach which has included voter approval, state and federal guidelines.

Marijuana for medical use is legal. Thousands of people who are living with painful ailments currently use cannabis for potential deadly diseases like cancer, HIV/AIDS, Multiple Sclerosis and others. It was not unheard of for doctors in the past to have told their patients to have their family members go and purchase marijuana for them, illegally, since the medical benefits of cannabis help the patient.

Currently, San Jose residents travel to San Francisco, Oakland and Santa Cruz to obtain medical marijuana with a doctor's prescription. However, since this is a legal use and in my opinion, especially since the voters approved the use, San Jose should adopt some type of ordinance that allows and monitors the use of cannabis collectives in San Jose. In addition, the way that the dispensaries are set up, money is used as an incentive for the City and uses as a deterrent for anyone who would choose to disobey the law.

Medicinal Marijuana Dispensaries will open, whether San Jose has an ordinance or not, and will use the court system to stay open. Most recently the city of Los Angeles which has over 500 dispensaries of which only 186 are licensed, lost their court case in limiting how many could exist in their city. If San Jose sits docile, then dispensaries may open in places where we do not want them to be located. In addition, if medical marijuana dispensaries get the right to deliver their product through the mail, then San Jose would lose any opportunity to gain revenue from taxes and fees.

Last week I submitted a memo that includes the following: directing the planning staff to bring back an ordinance to the city council in four months; use industrial land since typically industrial land is not next to schools or churches. The goal is that this use would add value to industrial property owners who would might be less likely to try and convert their land to housing.

An example of an existing ordinance is the City of Oakland. Oakland voters passed a ballot measure by 80 percent to raise the tax on marijuana to \$18 for every \$1,000 of sales. My suggestion is to set it at nearly twice as much: \$30 for every \$1,000 of marijuana sales. I believe that depending on how many dispensaries San Jose would allow could bring in \$500K to \$1 million to the city. I have suggested that this money be put aside and spent on core services which would be police officers and street maintenance.

Here is a link to the entire memo: [10-27-09 Adopt Ordinance for Legal Medical Cannabis Use San Jose](#)

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